

立法會
Legislative Council

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(These minutes have been seen by
the Administration)

**Bills Committee on
National Security (Legislative Provisions) Bill**

**Minutes of meeting
held on Tuesday, 8 April 2003 at 2:30 pm
in the Chamber of the Legislative Council Building**

Members present : Hon IP Kwok-him, JP (Chairman)
Hon Ambrose LAU Hon-chuen, GBS, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Dr Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Hon Eric LI Ka-cheung, JP
Hon Fred LI Wah-ming, JP
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung
Hon Bernard CHAN, JP
Hon CHAN Kam-lam, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai
Dr Hon Philip WONG Yu-hong
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, JP
Hon YEUNG Yiu-chung, BBS

Hon LAU Kong-wah
Hon LAU Wong-fat, GBS, JP
Hon Miriam LAU Kin-yee, JP
Hon Andrew CHENG Kar-foo
Hon SZETO Wah
Hon Timothy FOK Tsun-ting, SBS, JP
Dr Hon LAW Chi-kwong, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon LEUNG Fu-wah, MH, JP
Hon WONG Sing-chi
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP
Hon MA Fung-kwok, JP

Member attending : Dr Hon YEUNG Sum

Members absent : Hon Andrew WONG Wang-fat, JP
Hon LAU Chin-shek, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Henry WU King-cheong, BBS, JP
Hon Michael MAK Kwok-fung
Dr Hon LO Wing-lok

Public Officers attending : Mrs Regina IP, GBS, JP
Secretary for Security

Mr Timothy TONG, JP
Permanent Secretary for Security (Acting)

Mr Bob ALLCOCK, BBS, JP
Solicitor General

Mr Gilbert MO
Deputy Law Draftsman

Ms Winnie NG
Administrative Assistant to Secretary for Security

Mr Johann WONG
Principal Assistant Secretary for Security

Miss Adeline WAN
Senior Government Counsel

Ms Francoise LAM
Senior Government Counsel

Mr Hubert LAW
Assistant Secretary for Security

Clerk in attendance : Mrs Sharon TONG
Chief Assistant Secretary (2)1

Staff in attendance : Mr Jimmy MA, JP
Legal Adviser

Ms Bernice WONG
Assistant Legal Adviser 1

Mr Raymond LAM
Senior Assistant Secretary (2)5

I. Meeting with the Administration

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee requested the Administration to provide a written response to the following issues raised and information sought by members -

Treason

- (a) amending the expression "is a part of foreign armed forces" in the proposed section 2(1)(a) of the Crimes Ordinance (CO) along the line of "remains as a part of foreign armed forces";
- (b) deleting the term "instigates" in the proposed section 2(1)(b) of CO and substituting "encourages" or "provokes";
- (c) why the term "and" was used in the proposed section 2(4)(a)(iii) of CO;

- (d) improving the drafting of the proposed section 2(4)(a)(iii) of CO to spell out clearly that it referred to armed forces under the direction or control of an organization outside the territory of the People's Republic of China (PRC);
- (e) information on the court's interpretation of the term "consideration" in section 91 of the Criminal Procedure Ordinance;
- (f) information on the application of the Chinese Nationality Law on Chinese nationals who had settled abroad;
- (g) information on the extra-territorial application of Mainland criminal laws relating to treason on Chinese nationals who were not permanent residents of the Hong Kong Special Administrative Region (HKSAR);
- (h) whether a HKSAR permanent resident would lose his permanent resident status when he lost his Chinese nationality;
- (i) whether a Chinese HKSAR permanent resident who did not declare his foreign nationality would be regarded as a Chinese national;
- (j) whether a Chinese national who was a HKSAR permanent resident and acquired a foreign nationality would be caught by the proposed offence of treason when he paid tax to the foreign country or was enlisted to the army of that foreign country at the time of war;

Subversion

- (k) providing explicitly in the proposed section 2A of CO that the basic system of the PRC was the basic system referred to in Articles 1 and 2 of the Constitution of the PRC;
- (l) providing the definition of "Central People's Government" in the Bill; and
- (m) providing the relevant parts of the Constitution of the PRC which spelt out that the socialist system was the basic system of the PRC.

3. The Administration confirmed that it was the policy intent that the expression "basic system of the People's Republic of China" was the basic system referred to in Articles 1 and 2 of the Constitution of the PRC.

II. Date of next meeting

4. The next meeting would be held on Saturday, 12 April 2003 at 9:00 am to receive the views of the public on the Bill.

III. Any other business

Matters relating to meetings to receive public views on the Bill

5. The Chairman said that after the Bills Committee agreed at the meeting on 25 March 2003 that meetings would be held on 12 and 26 April 2003 to receive the views of the public on the Bill, a press release had been issued and an invitation for submissions had been placed on the web site of the Legislative Council. He informed Members that a total of 57 organizations/individuals had so far registered their interest in making oral representation to the Bills Committee. He suggested that 30 deputations/individuals be scheduled for expressing views at the meeting on 12 April 2003, while the remaining 27 deputations/individuals be scheduled for expressing views at the meeting on 26 April 2003. Mr Martin LEE disagreed and suggested that not more than 20 deputations/individuals should be scheduled to express views to the Bills Committee at each meeting. As there were divided views among members, a vote was taken on Mr LEE's suggestion. 7 members voted in favour of the suggestion while 20 members voted against.

6. The Bills Committee requested the Secretariat to prepare a summary of views expressed/suggestions made by organizations/individuals on the Bill.

7. The meeting ended at 6:40 pm.

Council Business Division 2
Legislative Council Secretariat
28 April 2003

**Proceedings of the meeting of the Bills Committee on
National Security (Legislative Provisions) Bill
on Tuesday, 8 April 2003 at 2:30 pm
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000223	Chairman	Opening remarks and papers issued	
Study area-treason			
000224 - 000812	Hon Margaret NG Chairman Admin	Whether section 91 of the Criminal Procedure Ordinance (CPO) would be amended in the light of the abolition of the common law offence of misprision of treason	
000813 - 000929	Dr Hon YEUNG Sum Chairman Admin	Meaning of the expression "foreign armed forces" in the proposed section 2(4)(a) of the Crimes Ordinance (CO) and whether joining armed forces of Taiwan would amount to an offence under the proposed section	
000930 - 000959	Hon LAU Kong-wah Chairman	Discussion of issues relating to subversion	
001000 - 001209	Hon CHEUNG Man-kwong Admin	Meaning of the term "consideration" in section 91 of CPO	
001210 - 001526	Hon Andrew CHENG Chairman Admin Hon Margaret NG	Provision of the Administration's response relating to joining a human shield and assisting a public enemy at war	
001527 - 001944	Hon CHAN Kam-lam Admin	Why the existing offence of killing, wounding or causing bodily harm to the head of state was proposed under the Bill to be repealed	
001945 - 003123	Hon Albert HO Admin Chairman	Interpretation of the proposed sections 2(1)(b) and 2(4)(a)(iii) of CO; interpretation of the expression "the People's Republic of China" and whether it included Taiwan	
003124 - 003949	Hon James TO Admin Chairman	Whether there was a need for the proposed section 2(4)(a)(iii) of CO	
003950 - 004859	Hon Jasper TSANG Admin Hon Margaret NG	Meaning and drafting of the proposed section 2(4)(a)(iii) of CO	Admin to explain why the term "and" was used in

Time marker	Speaker	Subject(s)	Action Required
	Chairman Hon SZETO Wah Hon James TO Admin Hon Martin LEE		the proposed section 2(4)(a)(iii) of CO and to consider improving the drafting of the proposed section to spell out clearly that it referred to armed forces under the direction or control of an organization outside the territory of the People's Republic of China (PRC)
004900 - 005539	Hon Margaret NG Admin	Interpretation of the term "consideration" in section 91 of the Criminal Procedure Ordinance	Admin to provide information on the court's interpretation of the term "consideration"
005540 - 011018	Hon James TO Chairman Admin LA Hon Margaret NG	Meaning of the term "position" and consistency between the Chinese and English texts of the proposed section 2(1)(c) of CO; whether a Chinese national who was a Hong Kong Special Administrative Region (HKSAR) permanent resident and had a foreign nationality would be caught by the proposed offence of treason when he paid tax to the foreign country or was enlisted to the army of that foreign country at the time of war	Admin to explain whether a Chinese national who was a HKSAR permanent resident and acquired a foreign nationality would be caught by the proposed offence of treason when he paid tax to the foreign country or was enlisted to the army of that foreign country at the time of war
011019 - 011844	Hon James TO Admin Hon Margaret NG Chairman	Why there was a need for the expression "Hong Kong permanent resident" in the proposed section 2(3) of CO; extra-territorial application of the proposed section	Admin to provide information on the extra-territorial application of Mainland criminal laws relating to treason on Chinese nationals who were not Hong Kong permanent residents

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011845 - 013014	Hon James TO Admin Hon Margaret NG	Relationship between the proposed sections 2(1)(a) and 2(3) of CO	Admin to consider amending the expression "is a part of foreign armed forces" in the proposed section 2(1)(a) of CO along the line of "remains as a part of the armed forces"
013015 - 013306	Hon James TO Admin	Meaning of the term "intent" in the proposed section 2(1)(a) of CO	
013307 - 013701	Hon Andrew CHENG Admin	Relationship between the proposed section 2(4)(a) and (b) of CO	
013702 - 014234	Hon James TO Hon LAU Kong-wah Chairman Hon Margaret NG Admin	Why the term "instigates" was used in the proposed section 2(1)(b) of CO instead of terms such as "incites", "encourages" or "provokes"	Admin to consider deleting the term "instigates" in the proposed section 2(1)(b) of CO and substituting "encourages" or "provokes"
014235 - 015147	Hon James TO Chairman Admin Hon Margaret NG Hon Cyd HO Hon Albert HO	Meaning of the expression "foreign armed forces" in the proposed section 2(4)(a) of CO; application of the Chinese Nationality Law on Chinese nationals who had settled abroad	Admin to provide information on the application of the Chinese Nationality Law on Chinese nationals who had settled abroad
015148 - 015613	Hon Margaret NG Hon Cyd HO Hon Albert HO Hon James TO Admin Chairman	Whether a HKSAR permanent resident would lose his permanent resident status when he lost his Chinese nationality; whether a Chinese HKSAR permanent resident who did not declare his foreign nationality would be regarded as a Chinese national	Admin to provide a response
[Break]			
Study area-subversion			
020933 - 024612	Chairman Hon LAU Kong-wah Hon CHEUNG Man-kwong Hon Margaret NG Hon LEE Cheuk-yan	Meaning of the expressions "the Central People's Government" and "the basic system of the People's Republic of China" in the proposed section 2A(1) of CO;	Admin to consider providing explicitly in the proposed section that the basic system of the PRC was the basic

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	Admin		system referred to in Articles 1 and 2 of the Constitution of the PRC; providing the definition of "Central People's Government" in the Bill; providing the relevant parts of the Constitution of the PRC which spelt out that the socialist system was the basic system of the PRC
024613 - 030009	Hon Albert HO Chairman Admin Hon Jasper TSANG	Whether there was a need for the proposed section 2A(1)(a) of CO; meaning of the expression "the basic system of the People's Republic of China"; whether calling for the termination of ruling by one political party would be caught by the offence in the proposed section 2A(1)(c) of CO	
030010 - 030538	Hon Jasper TSANG Admin	Meaning of the proposed section 2A(1)(b) of CO	
030539 - 031040	Hon Miriam LAU Admin	Providing explicitly in the proposed section 2A of CO that the basic system of the PRC was the basic system referred to in Articles 1 and 2 of the Constitution of the PRC	
031041 - 031529	Hon Cyd HO Admin	Meaning of the expression "the basic system of the People's Republic of China"	
031530 - 032135	Hon NG Leung-sing Admin	Examples of an offence under the proposed section 2A(1)(c) of CO	
032136 - 033609	Hon Martin LEE Hon James TO Chairman Admin	Whether there was a need for the proposed section 2A(1)(a) of CO, meaning of the expression "the basic system of the People's Republic of China"; Administration's policy intent regarding the meaning of the expression	
033610 - 040931	Chairman Hon Martin LEE Hon LEE Cheuk-yan Hon Cyd HO Hon Selina CHOW Hon Margaret NG Hon James TO	Matters relating to meetings to receive public views on the Bill; voting on the suggestion that not more than 20 deputations/individuals should be scheduled to express views to the Bills Committee at each meeting; summary of views expressed/suggestions made by organizations/individuals on the Bill	

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	Hon NG Leung-sing Hon YEUNG Yiu- chung Hon LAU Kong-wah Clerk Hon Howard YOUNG		

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